Supreme Court, U.S.
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No. 93-1762

In the

Supreme Court of the United States

October Term, 1993

DUANE AND PAMELA LARSON,

Petitioners,

v.

CHRISTOPHER G. SANFT, JERRY McCLURE, RANDY BECKER, NEIL SCOTT, DAN HILLIGOSS, LINDA HILLIGOSS, RANDY AND KARLA VAN ROSSUM, LeSEUER COUNTY, MINNESOTA AND COUNTY EMPLOYEES ROBERT RICHTER, DAVID SEXE, TERRY OVERN AND HARRY CHRISTIAN,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE MINNESOTA SUPREME COURT

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Counsel for Respondent County of LeSeuer and County Employees suggest that the questions presented by Petitioners are a misstatement of the questions presented in this case. Pursuant to Rule 24.2 of the Supreme Court Rules, Respondents respectfully offers the following Question Presented:

> WHETHER A GRANT OF SUMMARY JUDGMENT FOR THE COUNTY AND COUNTY EMPLOYEES WAS PROPER WHERE DOCUMENTS, PREPARED BY THE STATE, ALLOWING THE STATE TO SEIZE PETITIONERS' PROPERTY, WERE PROPERLY PREPARED, WHERE THE COUNTY WAS UNDER AN AFFIRMATIVE OBLIGATION TO RECORD THE DOCUMENTS SINCE THEY AFFECTED REAL PROPERTY PURSUANT TO MINN. STAT. § 386.39 (1984), AND WHERE THE COUNTY ITSELF DID NOT SEIZE ANY PROPERTY.

PARTIES TO THE PROCEEDING

The parties to this case are: Duane and Pamela Larson, Petitioners; The State of Minnesota; Minnesota Department of Revenue employees Christopher Sanft, Jerry McClure, Randy Becker, and Neil Scott; Dan and Linda Hilligoss; Randy and Karla Van Rossum; County of LeSeuer, Minnesota; and County Employees Robert Richter, David Sexe, Terry Overn, and Harry Christian, Respondents.

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Respondent respectfully asks that the Writ of Certiorari requested by Petitioners be denied.

STATEMENT OF THE CASE

Petitioners' Statement of the Case includes no facts as concerns LeSeuer County and County employees.

Petitioners allege that LeSeuer County officials conspired to take away their homestead. Petitioners further allege that the County employees willfully aided and abetted the State of Minnesota in the sale of Lot 37 (Petitioners' alleged homestead) by accepting documents for filing that were drafted by and for the State of Minnesota which enabled the State of Minnesota to seize and sell Petitioners' homestead. (Pet. App. pp. 16-17). There is no evidence in this case to suggest the documents prepared by the State were in any way improperly prepared. The County itself did not seize any property of Petitioners. There is no evidence whatsoever to support any conspiracy theory alleged by Petitioners. Further, the County was under an affirmative obligation to record instruments of title at the County since the documents affected real property and were properly executed and acknowledged, and such were deemed acceptable for filing, and must be filed by the County pursuant to Minn. Stat. § 386.39 (1984). (Pet. App. pp. 16-17).

Further, the District Court found the action by Petitioners against LeSeuer County was brought in bad faith and not supported by the facts or the law. As a consequence, Minnesota Rules of Civil Procedure Rule 11 sanctions were awarded against Petitioners and in favor of the County and County employees. (Resp. App. p. 21).

ARGUMENT

Pursuant to Rule 10 of the Supreme Court Rules, strong considerations exist in this case to deny review on Writ of Certiorari. There is no conflict or split on the issue here involved in the federal circuit courts. There is no federal question that

conflicts with the decision of another state court of last resort or of the United States Court of Appeals.

The decision of the Minnesota Supreme Court does not raise an important question of federal law which has not been, but should be settled by this Court.

Pursuant to Rule 42 of the Rules of the Supreme Court, Respondent County of LeSeuer and County employees request that damages and costs be awarded against the Petitioners since the Petition for Writ of Certiorari is frivolous and in no way sets forth any basis for any claim against LeSeuer County and the County employees.

CONCLUSION

For the reasons set forth above, a Writ of Certiorari should be denied in this case.

Respectfully submitted,

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